



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Ronald A. KATZ

Serial No.: 09/505,915

Filed: February 17, 2000

For: COMMERCIAL PRODUCT
ROUTING SYSTEM WITH VIDEO
VENDING CAPABILITY

) Customer No.: 35,554
)
) Confirmation No.: 7611
)
) Group Art Unit: 2614
)
) Examiner: S. Woo
)
) Docket No.: 6046-101D8
)
)
)

**BRIEF OF APPELLANT IN APPLICATION NO. 09/371,212
(PURSUANT TO MPEP §§ 2273-2279 AND 35 U.S.C. 306)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is further to the Notice of Appeal filed on September 22, 2008, and is timely submitted here with the appropriate extension fees.

Claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 are pending in this Application and remain rejected in the final office rejection (hereafter "FOA"). Accordingly, the final rejection of claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 is appealed here. The Applicant respectfully requests the Board to confirm the rejected claims for the reasons demonstrated in this Brief. In addition, the remarks urged in the twelve responses (during prosecution) submitted on March 19, 2001, June 11, 2001, August 7, 2002, August 23, 2003, July 14, 2004, June 7, 2005, March 30, 2006, December 18, 2006, and August 14, 2007, respectively, are incorporated herein by reference.

Remarks begin on page 2 of this Appeal Brief.

REMARKS

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I. REAL PARTY IN INTEREST

The present patent application by inventor Ronald A. Katz is assigned to an entity named **Telebuyer, LLC**.

II. RELATED APPEALS AND INTERFERENCES

An Appeal of a related patent, U.S. Patent No. 7,019,770, at the U.S. Patent Office is listed below:

1. U.S. Patent No. 7,019,770 to Katz, U.S. Application Serial No. 08/407,064, Appeal No. 2003-1089.
(copy of Decision on Appeal dated: August 25, 2004, see EXHIBIT A)
2. Appeal Pending in U.S. Application Serial No. 09/371,212 to Katz.

III. STATUS OF CLAIMS

Claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 finally rejected in the Final Office Action ("FOA") dated March 21, 2008, are appealed here. The bases for the U.S. Patent Office's ("Patent Office") rejections and the locations in the FOA where they are presented are indicated in Section VI for ease of reference.

IV. STATUS OF AMENDMENTS

The claims as presented here have been amended at least nine times in the various responses submitted during prosecution.

V. SUMMARY OF CLAIMED SUBJECT MATTER (OF THE REJECTED CLAIMS)

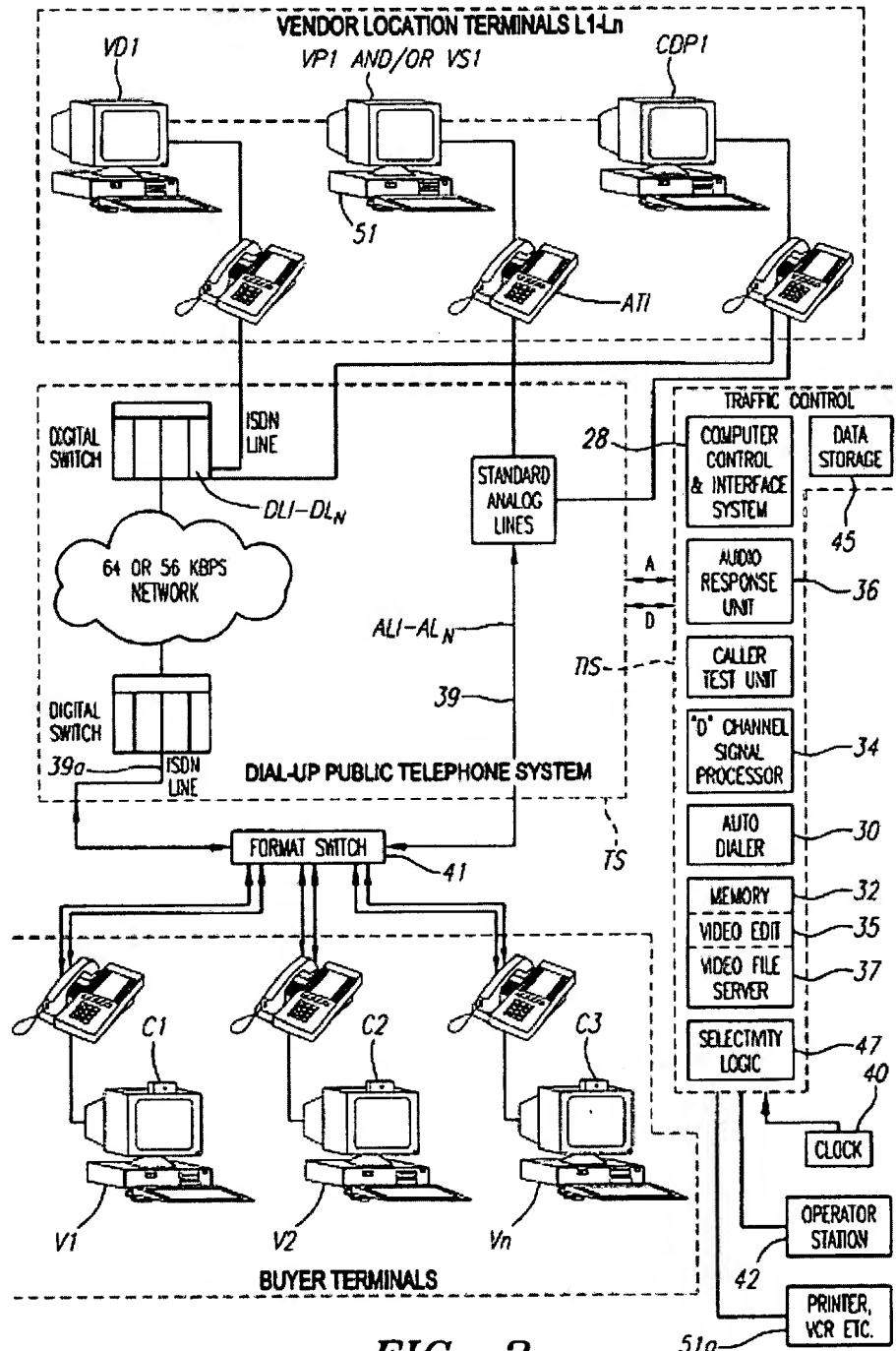


FIG. 2

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by independent claim 17 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of the buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system subsequently electronically outputs by electronic email to an indicated email address for electronic email communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 29 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to

an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data wherein the control system outputs an indication to said buyers by an electronic mail communication (e-mail).

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 31 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data wherein the control system outputs the indication to said buyers by a telephonic communication

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 33 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data wherein the control system outputs the indication to said buyers by a recorded voice message.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 35 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data, wherein the control system or the vendor site outputs the indication to said buyers by an electronic bulletin board.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 36 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites,

at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data, wherein the control system or the vendor site outputs an indication to said buyers by facsimile.

The invention (e.g., with reference to Fig. 2 in the specification as indicated above) as defined by claim 38 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data, wherein an

address for electronic communication is obtained for at least certain of said interested buyers from an on-line computer service.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 59 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising: an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service; an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service; a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer; a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data and wherein the commercial transaction system further including a priority determination system.

The invention (e.g., with reference to Fig. 2 in the specification as indicated above) as defined by claim 77 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising: an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface, an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad; a memory for storing vendor data for a plurality of vendors that are

classified according to specific merchandise or services; and a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system or the vendor site outputs an indication to said buyers by electronic mail (e-mail).

The invention (e.g., with reference to Fig. 2 in the specification as indicated above) as defined by claim 79 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising: an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface; an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad; a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system or the vendor site outputs an indication to said buyers by a telephonic communication.

The invention (e.g., with reference to Fig. 2 in the specification as indicated above) as defined by claim 81 is directed to an electronic commercial transaction system

for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising: an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface; an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad; a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system outputs an indication to said buyers by a recorded voice message.

The invention (e.g., with reference to Fig. 2 in the specification as indicated above) as defined by claim 83 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising: an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface; an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad; a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and a control system for

providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system outputs an indication to said buyers by an electronic bulletin board.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 84 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising: an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface; an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad; a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system outputs an indication to said buyers by facsimile.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 112 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyers and at least one or more vendor sites, at least certain

of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising: an interface for interaction with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface; an input system for use by a buyer to designate at least one area of commercial merchandise services interest created and expressed by the interested buyers via a keypad, and to provide data that includes an indication of the maximum price that buyers are willing to pay for a commercial product or service; a memory for storing input data of an interested buyer in association with said at least one designated area of commercial merchandise or services interest; a high resolution still image system to provide images for the designated area of commercial merchandise or services interest to said interested buyer; and a control system for isolating from the vendors identified to the commercial transaction system, at least one vendor associated with the area of commercial merchandise or services interest and electronically outputting by electronic mail to an address for electronic communication for the buyer an indication regarding said area of commercial merchandise or services interest including related images, the buyer using the input system for manipulating an image provided by the high resolution still image system for the area of commercial interest.

The invention (e.g., with reference to Fig. 2 in the specification indicated above) as defined by claim 159 is directed to an electronic commercial transaction system for selectively enabling communications via a communication network between one or more possibly interested buyer or buyers and one or more vendor or vendor sites, certain of said buyers having addresses for electronic communication, the system being adapted for use with an on-line computer service, comprising: an interface for facilitating interaction of said interested buyers with said system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface; a dynamic video and audio system for providing video and audio at least from said electronic commercial transaction system to said possibly interested buyer; an input system for use by interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad; a control system for isolating from the vendor sites that are identified to the commercial transaction system, at least one vendor site associated with an area of commercial merchandise or services interest; a memory in

association with the one vendor site for storing identification data of an interested buyer in association with said at least one designated area of commercial merchandise or services interest; and a control system electronically outputs by electronic mail to an address for electronic communication for a potential buyer, an indication to said buyer regarding said area of commercial merchandise or services interest, including a notification of availability of sales presentations of the one or more vendors wherein the sales presentation includes stored video for the area of interest including dynamic video data or high resolution freeze frame video data and text data.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether Claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 were improperly rejected under 35 U.S.C. § 103 as being unpatentable over Shavit et al. in view of Lockwood (corresponds to the rejection in paragraphs 2 and 3 at page 2 of the FOA).

VII. ARGUMENTS

It is respectfully submitted that the Patent Office's final action of March 21, 2008, (FOA) should be reconsidered and on reconsideration reversed. The Applicant demonstrates here that the combination of references asserted by the Examiner to reject the claims on appeal here is not only improper under the standard for evaluating obviousness as indicated by the Supreme Court, but also void of a teaching of all of the claimed elements of the rejected claims.

VIII. The Rejection Under 35 U.S.C. § 103 is Unsupported and Should Be Withdrawn

Applicant respectfully submits that there is absolutely no basis to reject the claims at issue here under § 103. The Applicant requests the Board to reverse the rejection under 103 and to confirm the claims.

A. Governing Criteria

For rejections under 35 U.S.C. Section 103, the establishment of a *prima facie* case of obviousness requires that all the claim limitations must be taught or suggested by the prior art. MPEP § 2143.03 The establishment of a *prima facie* case of obviousness requires that the claimed combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose. MPEP § 2143.03.

The Supreme Court set the standard for evaluating obviousness in its *KSR* decision (*KSR International Co. v. Teleflex Inc. et al.* (550 U.S. 398 (2007))) to be “expansive and flexible” and “functional.” However, the standard is not controlling, rather, the various noted factors only “can” or “might” be indicative of obviousness based on the facts. The Supreme Court in *KSR* enunciated the following principles:

“[w]hen a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, Section 103 likely bars it patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill....[A] court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

Simply using the benefit of hindsight in combining references is improper. *In re Lee*, 277 F.3d 1338, 1342-45 (Fed. Cir. 2002); *In re Deminski*, 796 F.2d 436, 442 (Fed. Cir. 1986)). The Supreme Court while recognizing the need “to guard against slipping into the use of hindsight,” acknowledged the following principles:

[r]ejection on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.

[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.

One of the ways in which a patent’s subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent’s claims.

Rather, obviousness is to be determined from the vantage point of a hypothetical person having ordinary skill in the art to which the patent pertains. See 35 U.S.C. § 103(a). The legal construct also presumes that all prior art references in the field of the invention are available to this hypothetical skilled artisan. *In re Carlson*, 983 F.2d 1032, 1038, 25 USPQ 2d 1207, 1211 (Fed. Cir. 1993). The Supreme Court in *KSR* stated that:

a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was independently, known in the prior art.

An examiner may often find every element of a claimed invention in the prior art. “Virtually all [inventions] are combinations of old elements.” *Environmental Designs, Ltd. V. Union Oil Co.*, 713 F.2d 693, 698, 218 USPQ 865, 870 (Fed.Cir. 1983), cert. denied, 464 U.S. 1043 (1984); see also *Richel, Inc. v. Sunspool Corp.*, 714 F.2d 1573, 1579-80, 219 USPQ 8, 12 (Fed.Cir. 1983). If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be “an illogical and inappropriate process by which to determine patentability.” *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1570, 38 U.S.P.Q.2d 1551, 1554 (Fed.Cir.1996). In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. The Supreme Court in *KSR* has also stated that:

[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the market place.

Further, the Supreme Court states that:

The Court relied upon the corollary principle that when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.

When considering the question of obviousness, further evidence of nonobviousness may also be considered, such as, for example, commercial success of the subject matter. *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F2d 888, 895 (Fed. Cir. 1984).

The claims at issue define substantial improvements over the applied art in the form of combinations of functionalities and system components or equipment that perform those functionalities. When properly viewed against the applicable standard and as shown in detail below, none of the asserted references, when considered either individually or collectively, teach or suggest the claimed combinations of functionalities and system components. The claimed subject matters would have been unobvious to a person of ordinary skill at the time of the inventions claimed in this patent.

B. Rejection of Claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 under Shavit et al. in view of Lockwood (FOA, pages 2 and 3)

In paragraphs 2 and 3 of the FOA, claims 17-23, 25-40, 42-64, 66-116, 121, 123-205 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al., in view of Lockwood. Applicant traverses this rejection and demonstrates below why this rejection is not only improper, but also fails to demonstrate how the combination meets all of the claimed elements.

1. *Shavit and Lockwood are nonanalogous art improperly relied upon to form the basis for the rejection.*

First, the Patent Office reference classifications are evidence of nonanalogy.¹ MPEP § 2141.01(a)(I); See also MPEP §§ 903 et seq.. The two patents that are

¹ See Overview of the U.S. Patent Classification System (USPC), §§ 1.1 & 1.5.1, December 2008. (“1.1 The USPC

The USPC is a system for organizing all U.S. patent documents and many other technical documents into relatively small collections based on common subject matter. Each subject matter division in the USPC includes a major component called a class and a minor component called a subclass. **A class generally delineates one technology from another.** Subclasses delineate processes, structural features, and functional features of the subject matter encompassed within the scope of a class. Every class has a unique alphanumeric identifier, as do most subclasses.

A class/subclass pair of identifiers uniquely identifies a subclass within a class (for example, the identifier “2/456” represents Class 2, Apparel, subclass 456, Body cover). This unique identifier is called a classification symbol, or simply a classification, or USPC classification, to distinguish it from classifications of other patent classification schemes. A subclass represents the smallest division of subject matter in the USPC under which documents may be collected.

combined fall under entirely distinct classifications, which purport to delineate one technology from another and to ensure subject matter in one class does not overlap subject matter in another class. The classifications of the references reveal that the asserted patents are directed to technologies that are distinct and therefore, not obvious for a combination as proposed by the Examiner. The combination proposed by the Examiner is improper and clearly based on hindsight.

- | | | |
|-----|---------------|-------------------|
| (1) | Shavit et al. | 364/401 and 408 |
| (2) | Lockwood | 395/227; 235/381. |

On this basis alone, Applicant submits that the references are improperly combined and do not support the rejection. The differences in structure and function of the inventions disclosed in the references also serve to reveal the non-analogous character of a purported combination. MPEP § 2141.01(a)(II).

Second, the functions of the combined art are quite distinct. Shavit is directed to a system for a user-directed (where the user selects a vendor) messaging system to facilitate business transactions. Lockwood is directed to a system for automated sales and services. The embodiment asserted by the Examiner in Lockwood for satisfying the claims on appeal use a television network for “automatically dispensing information, goods, and services from multiple retailers, and from travel, financial, and other service providers. The data processing center is linked to data sources of various product and service providers for order processing. The data processing center is programmed to respond to customer’s directions, select requested audio-visual presentations from its data sources of prerecorded information segments and place them on a television network

A collection of documents is defined as a set of documents sharing a common classification. A classification assigned to a document associates the document to the class and subclass identified by the classification. Documents are “classified in a subclass” if a classification corresponding to the unique subclass has been assigned to it. A document may be a member of more than one collection, i.e., it may have more than one classification assigned to it. **Classifications are assigned to documents based on disclosure in the document.**

...

1.5.1 Class Properties

Classes are mutually exclusive, meaning that the subject matter provided for by one class does not overlap that provided for by another. This principle was developed to ensure that patents are consistently classified into the USPC; however, in practice, emerging technologies not clearly provided for in any one class may develop in more than one class simultaneously.) (emphasis added).

from where they will be decoded, captured and displayed by the customer's home receiver." [emphasis by underlining added]

Applicant respectfully submits that the problems defined within each reference (Shavit and Lockwood) confronting a person with ordinary skill in the art, are not only different, but are solved in a manner altogether different from each other to render different results. The only common aspect that exists in each reference lies in the fact that each reference involves computer and telephone-related elements and functions. It is not logical or predictable that one of ordinary skill in the art would combine such disparate references to arrive at the present claims, especially because, if anything, the respective teachings in Shavit (of the buyer selecting and indicating the vendor to the system in order to transact business) and in Lockwood (of the data processing center isolating a vendor) contradicts and teaches away from each other. If the buyer already knows a vendor, why would it be advantageous to introduce a redundant exercise to have the data processing center isolate an appropriate vendor). Any combination to that effect can only result from reading the Applicant's disclosure and piecing together teachings in each reference to meet the claims here. Therefore, Applicant respectfully submits that the combination of the two references is improper and requests the Board to reverse the rejections based on this combination.

In addition, Applicant notes that U.S. Patent No. 5,576,951 has a filing date of March 16, 1994, after the effective filing date of the present application, and it is a continuation-in-part of earlier filed applications, yet with a specification that is far more limited than Lockwood's '951 specification. Therefore, the Board is respectfully requested to recognize that only the subject matter of the earlier filed applications is prior art to Applicant's present application.

2. *Shavit and Lockwood do not alone or in combination teach or suggest each and every element of the claims.*

Even if the combination of Shavit and Lockwood was proper, that combination still does not satisfy all the elements of the claims on appeal.

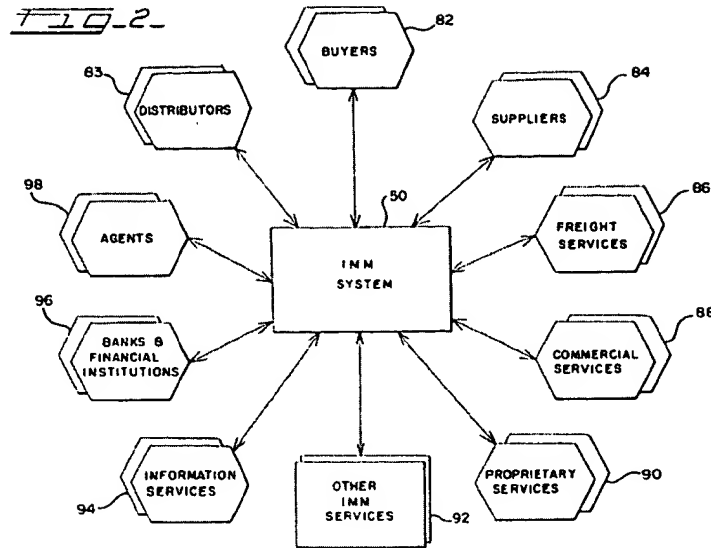
First, regarding Shavit, the Examiner acknowledges that "*Shavit differs from the claims in that it does not specify the control system processing the input data to isolate at least one select vendor site from a plurality of vendor sites based on the area of*

commercial interest designated by the buyer and an indication including select video data presentations.” Applicant agrees.

In addition, Applicant notes that Shavit also differs for other reasons and does not teach or suggest other elements of the claims as well. Shavit is a user-directed messaging system that merely enables a buyer to conduct business with one distributor at a time (see Shavit’s Fig. 2 below). It lacks the decision making capability that is an essential element of the appealed claims. For example, Shavit discloses:

Once past the standard access procedure and having either passed through the mail session or delayed mail processing, **the user is asked to select the type of information provider** (e.g. distributor, freight carrier, financial institution, etc.) the user wants to communicate with. After the user has passed through the necessary security validation, **the user is asked to select the party he wishes to interact with** and the system validates that the selected part is willing to accept such a transaction session. The results of the validation check may be an acceptance of the session by the provider, a demand for additional security information (e.g. additional password), a total rejection of the session, or an acceptance of the session on the condition that the user will accept the costs.

As an example of a transaction, a buyer may request a transaction with a particular distributor. In this case, if the buyer passes through the security validation levels as required, the buyer may receive one frame of news/promotion information prepared by the selected distributor. This frame may be changed by the distributor as frequently as desired. The user may then proceed with the transaction session or **elect enter a promotional review session**. The variety of services that are available from the distributor when the transaction session proceeds are presented to **the user for his selection by a menu**. (Col. 12, lines 27-53) (emphasis added).



In Shavit, a user directs all communications with the system and a particular distributor. The user specifically chooses the other party in the transaction. Even when more than one distributor is contacted (in order to complete a business transaction), it is the user that controls the communications and the sessions, not Shavit's system. For example, to describe communication with more than one party, Shavit discloses:

Concurrent communications is provided by the system 50 during any transaction session permitting any user to concurrently communicate with a plurality of different types of parties. Thus, for example, during an interactive session with a buyer, a seller may communicate concurrently with a financial institution to arrange financing, a supplier to procure a needed item and a freight carrier to arrange for shipment. Such concurrent sessions may be conducted using various techniques, **including windowing or flipping from one party to another**. (Col. 11, lines 11-21) (emphasis added).

In other words, the user "flips windows" from one party to another; the user controls the entire process. Moreover, during a user-controlled session, the seller (selected by a user) can communicate with other parties necessary to a user's transaction in concurrent communications. At no point does Shavit's system isolate parties for a user to communicate with based on some decision criteria executed by the system, especially

for the purpose of finding an appropriate seller that may have data that a user is looking for.

It is obvious that the citations from Shavit are taken out of context of the operation of Shavit's system and applied to the elements of the claim with no regard to the actual intent or scope of Shavit's system. That is contrary to *KSR*. Shavit's system controls none of the claimed functions, but rather acts simply as a conduit for passing mail messages that may or may not contain data such as "RFQ" data. So, whereas, Shavit may use some terms that appear in the appealed claims, the intent and meaning of these term in Shavit is very distinct. By way of one example, a buyer directs any "RFQ" data after selection of a vendor. (See Shavit, col. 11, line 39 – col. 12, line 18). In fact, an RFQ cannot even be created, until after establishing contact with a particular vendor. Thus, the particular RFQ is necessarily limited to the vendor already selected by the user.

Clearly, the operation of a user isolating the vendor in Shavit, falls outside the scope of the appealed claims, which explicitly include the operation of isolating a particular vendor or seller. Moreover, in Shavit, once a bid is made, *"the system generates an automatic memo in its electronic mailbox notifying the user that a new bid is now available."* (See Shavit, col. 13, lines 25-27). In other words, the system does not transmit the buyer request, but rather stores it, and issues a memo whereby the user can access the bid at a later time.

The appealed claims here emphasize that the central unit (i.e., the electronic commercial transaction system) is the "entity" isolating vendors based on the area of commercial interest designated by a buyer, which is created and expressed by buyers via a keypad. As defined by some claims (e.g., claims 25, 112, 116, and 121), the area of commercial interest may include an indication of the price. In these claims, a buyer request indicating a price exists before establishing electronic communication, to which the system responds by isolating a vendor. Shavit has no such capability, as the vendor with whom a user desires to communicate is entirely user-directed. As such, Shavit is deficient and falls outside the scope of the claims.

Moreover, Applicant respectfully submits that Shavit does not disclose purchase requests or proposals. Shavit's RFQ is a request from a user for price and delivery quotes from a seller. In Shavit, sellers, not buyers, set or indicate prices, and thus, there are no purchase offers or proposals that include an indication of price from the buyer. See in

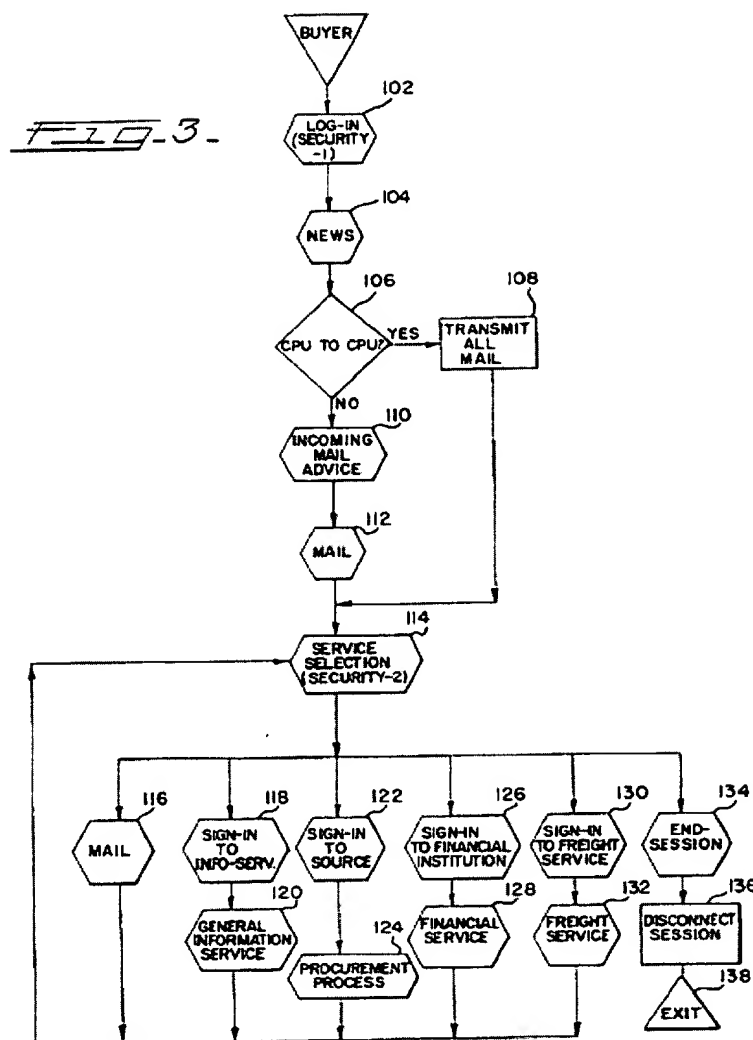
Shavit, for example (also indicated below), col. 15, lines 45-60 and Figure 3, which discusses seller's price lists and seller price quotations, and col. 13, lines 35-39, which describe that a buyer is provided with fixed prices for a predetermined list of items.

The system 50 also allows the supplier to provide its customers with an on-line interactive sales service providing immediate quotations, confirmations, and status information. Alternatively, some of the transactions may be validated and recorded but the actual confirmation is deferred for either a manual intercept or later processing at the supplier's end. At any point during an interactive session with a supplier, a user may branch into a catalogue/price list search session. While the system supports a wide set of options in searching a supplier's catalogue, a subscriber supplier may elect to support only a subset of these options. Such options include searches by multiple keys partial description, related items (substitutes, complementary, promotional relations, documentations, systems, etc.) as well as multiple ways to price an item.

(Shavit, col. 15, lines 45-60)

A distributor may sign a master purchasing agreement with a buyer providing a fixed price as well as a definition of delivery time for a given predetermined list of items. The terms of such an agreement are entered and authorized by the seller.

(Shavit, col. 13, lines 35-39)



Shavit, Fig. 3

Because there are no purchase offers or proposals in Shavit, Shavit does not disclose nor suggest the step of receiving a request or proposal from the buyer including the maximum price a buyer is willing to pay.

In addition, other appealed claims indicate that the area of interest is product or merchandise codes based on which a vendor is isolated (e.g., claims 18, 19, 27, 66, 67, 75, 76, 113, 114, 160, and 161). Shavit has no such capability, as the vendor is with whom a user desires to communicate is again user-directed. Yet other appealed claims (e.g., claims 60-62, 107, 109, and 154) recite a priority determination system, by which a vendor is isolated. Again, Shavit has no such capability for the same reasons urged above. Claim 140 expressly recites that the claimed control system outputs an indication

to the buyers by dynamic video relating to the area of interest. The Examiner has not shown where Shavit teaches this aspect.

In addition, the various appealed claims expressly define the manner of electronically outputting an indication to an interested buyer variously by telephonic communication, facsimile, electronic bulletin board, recorded voice message, etc. The Examiner only cites the example of electronic mail.

Claim 112 requires not only an indication of maximum price by the buyer (not met by Shavit), but also requires buyer use of the input system for manipulating an image provided by the high resolution still image system for the area of interest. There is no such capability in Shavit that the Examiner describes.

Accordingly, based on the current legal construct, Shavit provides no reason that would lead one of ordinary skill to combine the two references in the manner that the Examiner suggests, much less to yield a predictable result as indicated by the Examiner. If anything, as indicated above, the respective teachings in Shavit (of the buyer selecting the vendor) and in Lockwood (of the central processor selecting the vendor) contradicts and teach away from each other.

The Examiner urges the combination, simply to indicate that Lockwood teaches the desirability of having a central processor 222 for isolating an appropriate vendor-supplied data source associated with the customer's request (see col. 18, lines 51-54; col. 19, lines 52-53; col. 20, lines 36-39), for output to the customer as a high-resolution audio-visual presentation. Therefore, the Examiner believes that it would have been obvious to one of ordinary skill to incorporate such vendor isolation as taught by Lockwood within the system of Shavit in order to provide buyers with a more efficient means of selecting goods and services from a plurality of vendors by providing customized audio/video presentations based on the buyer's area of interest. In this way, according to the Examiner, the buyer need not manually select each distributor from which the information is desired. Shavit's system is for users that already know the vendor and direct the communications with the vendor. Therefore, the exercise of determining the vendor (as apparently taught by Lockwood) would be futile. Hence, Applicant urges the Board to recognize that the combination of the two references is improper.

Even if the references are combined as the Examiner suggests and for the reasons that the Examiner provides, the combination does not meet all the limitations of the appealed claims. The independent claims on appeal here recite that the area of interest is created and expressed by the buyer via a keypad. As the Examiner recognizes, Shavit does not teach processing by its control system of input data to isolate at least one select vendor site from a plurality based on commercial area of interest designated by the buyer.

Moreover, Lockwood, at column 18, lines 51-54, clearly teaches that the tone or voice response system 221 receives the “customer’s selections” in “audio signal form” and “converts the signals to messages” which are transmitted to the central processor 222 for selection of data sources. The claims on appeal here recite that the user creates and expresses the area of interest via a digital keypad, which recitation is also not taught by Lockwood.

Moreover, the Examiner asserts sections in Lockwood, to satisfy the claimed recitation that the central processor selects an appropriate vendor, which are quite distinct from the appealed claims. In Lockwood, the customer requests audio-visual presentations that are relayed from the voice response system to the central processor 222, which selects the appropriate data sources for transmission to the local cable television company 210 and routed via the cable network 281 to the customer’s terminal 202. The customer, upon viewing the presentation, which includes a menu, selects from the displayed menu on the video screen, his next selection, which is then entered on the keypad and is transmitted to the central data processing center for assembly of the requested informational segment. Nowhere does Lockwood describe a customer simply entering request data, and the central processor fulfilling that request by first selecting an appropriate vendor.

In addition, as noted above, the Lockwood patent asserted by the Examiner (U.S. Patent No. 5,576,951) has a filing date of March 16, 1994, after the effective filing date of the present application, but with a claim to priority to earlier filed applications, which have a specification that is far more limited than the other asserted. Thus, only the subject matter disclosed in the earlier filed applications is prior art to the appealed claims.

The cited references (Shavit and Lockwood) do not alone or in combination teach or suggest the appealed claims as is demonstrated here. Accordingly, the Applicant requests the Board to reverse the rejection and to allow the appealed claims.

IX. Summary of § 103 Rejections

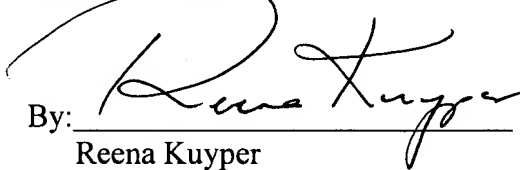
The Applicant respectfully submits that the rejected claims of the instant application are distinct and patentable. As described above, the primary references do not disclose each and every element of the claimed combinations in the rejected claims. Therefore, the claims are novel and non-obvious. Furthermore, the claimed combinations are not suggested by the cited art.

X. CONCLUSION

The Applicant respectfully submits that the rejected claims of the Application are distinct and patentable. As demonstrated above, the primary cited references do not disclose each and every element of the claimed combinations in the rejected claims. Therefore, the claims remain patentable. Furthermore, the claimed combinations were not suggested by the cited art.

Respectfully submitted,

BERRY & ASSOCIATES P.C.

By: 

Reena Kuyper
Registration No. 33,830

Dated: March 23, 2009

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XI. CLAIMS APPENDIX

The claims in the instant application are as follows.

1-16. (Canceled)

17. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising:

an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

whereby the control system subsequently electronically outputs by electronic email to an indicated email address for electronic email communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data.

18. (Previously Presented) The commercial transaction system of claim 17 wherein at least one area of interest is designated by unique product codes.

19. (Previously Presented) The commercial transaction system of claim 17 wherein at least one area of interest is designated by product class codes.

20. (Previously Presented) The commercial transaction system of claim 17 wherein at least one area of interest is a specific product.

21. (Previously Presented) The commercial transaction system of claim 17 wherein the interested buyers provide purchase data as part of the input data.

22. (Previously Presented) The commercial transaction system of claim 17 wherein the interested buyers provide cost data as part of the input data.

23. (Previously Presented) The commercial transaction system of claim 17 wherein the interested buyers provide qualification data as part of the input data.

24. (Canceled)

25. (Previously Presented) The commercial transaction system of claim 22 wherein the control system transmits the highest offer from interested buyers.

26. (Previously Presented) The commercial transaction system of claim 23 wherein the control system further considers factors in addition to qualification data.

27. (Previously Presented) The commercial transaction system of claim 26 wherein said other factors include merchandise codes.

28. (Previously Presented) The commercial transaction system of claim 27 wherein said other factors include merchandise codes.

29. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites,

at least certain of said buyers having addresses for electronic communication,
comprising:

an interface for facilitating interaction of interested buyers with
vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input
data including data created and expressed by the interested buyers via a
keypad to designate at least one area of commercial interest for a
merchandise or service;

a control system for processing the input data to isolate at least one
select vendor site from the plurality of vendor sites based on the area of
commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing
identification data of the interested buyer in association with said area of
commercial interest designated by the buyer; and

whereby the control system electronically outputs to an indicated
address for electronic communication for the interested buyer, an
indication regarding said area of interest including select video data
presentations including dynamic video data or high resolution freeze
frame video data and text data wherein the control system outputs an
indication to said buyers by an electronic mail communication (e-mail).

30. (Previously Presented) The commercial transaction system of claim 29
wherein the addresses for said electronic communication are electronic mail addresses

31. (Previously Presented) An electronic commercial transaction system for
selectively enabling communications via a communication network between at least one
or more possibly interested buyer or buyers and at least one of a plurality of vendor sites,
at least certain of said buyers having addresses for electronic communication,
comprising:

an interface for facilitating interaction of interested buyers with
vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data wherein the control system outputs the indication to said buyers by a telephonic communication

32. (Previously Presented) The commercial transaction system of claim 31 wherein the addresses for said telephonic communication are telephone numbers for the buyers.

33. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising:

an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data wherein the control system outputs the indication to said buyers by a recorded voice message.

34. (Previously Presented) The commercial transaction system of claim 33 wherein the recorded voice message is voicemail.

35. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising:

an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data, wherein the control system or the vendor site outputs the indication to said buyers by an electronic bulletin board.

36. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising:

an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze

frame video data and text data, wherein the control system or the vendor site outputs an indication to said buyers by facsimile.

37. (Previously Presented) The commercial transaction system of claim 36 wherein an address for electronic communication is a telephone number associated with a facsimile machine.

38. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising:

- an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service;

- an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

- a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

- a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

- whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data, wherein an address for electronic communication is obtained for at least certain of said interested buyers from an on-line computer service.

39. (Previously Presented) The commercial transaction system of claim 17 wherein an address for electronic communication is provided during a registration phase.

40. (Previously Presented) The commercial transaction system of claim 17 wherein an address for electronic communication is obtained automatically from the system.

41. (Canceled)

42. (Previously Presented) The commercial transaction system of claim 17 wherein the control system outputs an indication to said buyers by a video download of information.

43. (Previously Presented) The commercial transaction system of claim 42 wherein the control system or the vendor site outputs an indication to said buyers further including audio.

44. (Previously Presented) The commercial transaction system of claim 17 wherein the control system or the vendor site outputs an indication to said buyers by video including information depicting at least in part the products or services relating to the area of interest.

45. (Previously Presented) The commercial transaction system of claim 44 wherein the control system or the vendor site outputs an indication to said buyers by dynamic video relating to the area of interest.

46. (Previously Presented) The commercial transaction system of claim 17 wherein the control system or the vendor site outputs an indication to said buyers at least in part by still picture information depicting at least in part the products or services relating to the areas of interest.

47. (Previously Presented) The commercial transaction system of claim 46 wherein the indication further includes audio with the still picture information.

48. (Previously Presented) The commercial transaction system of claim 17 further including a response system to permit buyers to contact said commercial transaction system in response to receipt of said indication to said buyers regarding materials relating to the areas of interest.

49. (Previously Presented) The commercial transaction system of claim 48 further including a reference locator indication, wherein certain buyers enter the reference locator via the input system.

50. (Previously Presented) The commercial transaction system of claim 17 further including an image display system for presenting high resolution still images to said interested buyers upon contact of said system, after the communication of the indication to said potential buyers regarding said area of interest.

51. (Previously Presented) The commercial transaction system of claim 50 further including an audio system for providing audio to at least said potential buyers.

52. (Previously Presented) The commercial transaction system of claim 17 further including a dynamic video display system for presenting dynamic video to said interested buyer upon contact of said system after the communication of the indication to said buyer regarding said area of interest.

53. (Previously Presented) The commercial transaction system of claim 17 further including a text system for providing the text data.

54. (Previously Presented) The commercial transaction system of claim 17 further including an audio system for providing audio.

55. (Previously Presented) The commercial transaction system of claim 54 wherein the audio system provides at least voice as part of the audio.

56. (Previously Presented) The commercial transaction system of claim 17 further including an inventory control system.

57. (Previously Presented) The commercial transaction system of claim 56 further including a notification prevention system when said inventory control system indicates that the product or service corresponding to the area of interest is unavailable for ordering.

58. (Previously Presented) The commercial transaction system of claim 17 further including an electronic data interchange capability for facilitating said commercial transactions.

59. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one of a plurality of vendor sites, at least certain of said buyers having addresses for electronic communication, comprising:

an interface for facilitating interaction of interested buyers with vendor sites via an on-line computer service;

an input system for use by the interested buyers to provide input data including data created and expressed by the interested buyers via a keypad to designate at least one area of commercial interest for a merchandise or service;

a control system for processing the input data to isolate at least one select vendor site from the plurality of vendor sites based on the area of commercial interest designated by an interested buyer;

a memory in communication with the select vendor site for storing identification data of the interested buyer in association with said area of commercial interest designated by the buyer; and

whereby the control system electronically outputs to an indicated address for electronic communication for the interested buyer, an indication regarding said area of interest including select video data presentations including dynamic video data or high resolution freeze frame video data and text data and wherein the commercial transaction system further including a priority determination system.

60. (Previously Presented) The commercial transaction system of claim 59 wherein the priority determination system includes a random number generator.

61. (Previously Presented) The commercial transaction system of claim 59 wherein the priority determination system includes a priority numbering system.

62. (Previously Presented) The commercial transaction system of claim 59 wherein the priority determination system rotates among subsets of said buyers.

63. (Previously Presented) The electronic commercial transaction system of claim 17 wherein at least certain buyers are adapted to access said system via an on-line computer service.

64. (Previously Presented) The commercial transaction communication system of claim 63 wherein the identification data is obtained for at least certain buyers from said on-line computer service.

65. (Canceled)

66. (Previously Presented) The commercial transaction system of claim 77 wherein at least one area of interest is designated by unique product codes.

67. (Previously Presented) The commercial transaction system of claim 77 wherein at least one area of interest is designated by product class codes.

68. (Previously Presented) The commercial transaction system of claim 77 wherein at least one area of interest is a specific product.

69. (Previously Presented) The commercial transaction system of claim 77 wherein the interested buyers designate purchase data.

70. (Previously Presented) The commercial transaction system of claim 77 wherein the interested buyers designate cost data.

71. (Previously Presented) The commercial transaction system of claim 77 wherein the area of interest designated by the interested buyers includes qualification data.

72. (Previously Presented) The commercial transaction system of claim 77 wherein the interested buyers indicate the purchase amount that the interested buyers do not wish to exceed with the area of commercial merchandise or services interest.

73. (Previously Presented) The electronic commercial transaction system of claim 77 wherein the control system imposes at least one limitation on access by the interested buyers.

74. (Previously Presented) The commercial transaction system of claim 71 wherein the control system for providing access to the select vendor further considers other factors in addition to qualification data.

75. (Previously Presented) The commercial transaction system of claim 74 wherein said other factors include merchandise data.

76. (Previously Presented) The commercial transaction system of claim 74 wherein said other factors include merchandise codes.

77. (Currently Amended) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising:

an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface,

an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad;

a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and

a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system or the vendor site outputs an indication to said buyers by electronic mail (e-mail)

78. (Previously Presented) The commercial transaction system of claim 77 wherein the addresses for electronic communication is an electronic mail address.

79. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor

sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising:

- an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface;

- an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad;

- a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and

- a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system or the vendor site outputs an indication to said buyers by a telephonic communication.

80. (Previously Presented) The commercial transaction system of claim 79 wherein the addresses for electronic communication is a telephone number.

81. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising:

an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface;

an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad;

a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and

a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system outputs an indication to said buyers by a recorded voice message.

82. (Previously Presented) The commercial transaction system of claim 81 wherein the recorded voice message is voicemail.

83. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising:

an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer

adapted for utilizing an on-line computer service as at least a portion of said interface;

an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad;

a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and

a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system outputs an indication to said buyers by an electronic bulletin board.

84. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyer or buyers and at least one or more vendor or vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising:

an interface for facilitating interaction of interested buyers with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface;

an input system for use by the interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad;

a memory for storing vendor data for a plurality of vendors that are classified according to specific merchandise or services; and

a control system for providing access to a select vendor from the vendor sites based on the area of commercial merchandise or services interest entered by the buyer and accordingly interconnecting the selected vendor with the buyer for electronic communication including transmitting video data from stored video for the area of commercial merchandise or services interest the video data including dynamic video data or high resolution freeze frame video data and text data, the control system also providing the buyer with an identification number to identify a particular transaction, wherein the control system outputs an indication to said buyers by facsimile.

85. (Previously Presented) The commercial transaction system of claim 84 wherein an address for electronic communication is a telephone number associated with a facsimile machine.

86. (Previously Presented) The commercial transaction system of claim 84 wherein an address for electronic communication is obtained for at least certain of said interested buyers from an on-line computer service.

87. (Previously Presented) The commercial transaction system of claim 84 wherein an address for electronic communication is provided during a registration phase.

88. (Previously Presented) The commercial transaction system of claim 84 wherein an address for electronic communication is obtained automatically from the system.

89. (Previously Presented) The commercial transaction system of claim 84 wherein the control system or the vendor site electronically outputs the indication to a certain subset of the interested buyers.

90. (Previously Presented) The commercial transaction system of claim 84 wherein the control system outputs an indication to said buyers by a video download of information relating to the area of interest.

91. (Previously Presented) The commercial transaction system of claim 90 wherein the control system outputs an indication to said buyers further including audio.

92. (Previously Presented) The commercial transaction system of claim 77 wherein the control system outputs the email indication to said buyers which includes video including information depicting at least in part the products or services relating to the area of interest.

93. (Previously Presented) The commercial transaction system of claim 92 wherein the control system outputs the indication to said buyers by dynamic video relating to the area of interest.

94. (Previously Presented) The commercial transaction system of claim 92 wherein the control system or the vendor site outputs an indication to said buyers at least in part by still picture information depicting at least in part the products or services relating to the areas of interest.

95. (Previously Presented) The commercial transaction system of claim 94 wherein the indication further includes audio with the still picture information.

96. (Previously Presented) The commercial transaction system of claim 77 further including a response system to permit buyers to contact said system in response to receipt of said indication to said buyers regarding materials relating to the areas of interest.

97. (Previously Presented) The commercial transaction system of claim 96 further including a cross reference number to identify transactions relating to the areas of interest.

98. (Previously Presented) The commercial transaction system of claim 77 further including an image display system for presenting high resolution still images to said interested buyer upon contact of said system, after the communication of the indication to said buyer regarding said area of interest.

99. (Previously Presented) The commercial transaction system of claim 98 further including an audio system for providing audio to at least said buyer.

100. (Previously Presented) The commercial transaction system of claim 77 further including a dynamic video display system for presenting dynamic video to said interested buyer upon contact of said system after the communication of the indication to said buyer regarding said area of interest.

101. (Previously Presented) The commercial transaction system of claim 77 further including a text system for providing text.

102. (Previously Presented) The commercial transaction system of claim 77 further including an audio system for providing audio.

103. (Previously Presented) The commercial transaction system of claim 102 wherein the audio system provides at least voice.

104. (Previously Presented) The commercial transaction system of claim 77 further including an inventory control system.

105. (Previously Presented) The commercial transaction system of claim 104 further including a notification prevention system when said inventory control system indicates that the product or service corresponding to the area of interest is unavailable for ordering.

106. (Previously Presented) The commercial transaction system of claim 77 further including an electronic data interchange capability for facilitating said commercial transactions.

107. (Previously Presented) The commercial transaction system of claim 77 further including a priority determination system.

108. (Previously Presented) The commercial transaction system of claim 107 wherein the priority determination system includes a random number generator.

109. (Previously Presented) The commercial transaction system of claim 107 wherein the priority determination system includes a priority numbering system

110. (Previously Presented) The commercial transaction system of claim 107 wherein the priority determination system rotates among subsets of said buyers.

111. (Previously Presented) The commercial transaction communication system of claim 77 wherein the identification data is obtained for at least certain of said members from said on-line computer service.

112. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between at least one or more possibly interested buyers and at least one or more vendor sites, at least certain of said buyers having addresses for electronic communication, the electronic commercial transaction system being adapted for use with an on-line computer service, comprising:

an interface for interaction with said electronic commercial transaction system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface;

an input system for use by a buyer to designate at least one area of commercial merchandise services interest created and expressed by the interested buyers via a keypad, and to provide data that includes an indication of the

maximum price that buyers are willing to pay for a commercial product or service;

a memory for storing input data of an interested buyer in association with said at least one designated area of commercial merchandise or services interest;

a high resolution still image system to provide images for the designated area of commercial merchandise or services interest to said interested buyer; and

a control system for isolating from the vendors identified to the commercial transaction system, at least one vendor associated with the area of commercial merchandise or services interest and electronically outputting by electronic mail to an address for electronic communication for the buyer an indication regarding said area of commercial merchandise or services interest including related images, the buyer using the input system for manipulating an image provided by the high resolution still image system for the area of commercial interest.

113. (Previously Presented) The commercial transaction system of claim 112 wherein at least one area of interest is designated by unique codes.

114. (Previously Presented) The commercial transaction system of claim 112 wherein at least one area of commercial merchandise or services interest is designated by class codes.

115. (Previously Presented) The commercial transaction system of claim 112 wherein at least one area of commercial merchandise or services interest is a specific product.

116. (Previously Presented) The commercial transaction system of claim 112 wherein the buyer indicates the maximum price as purchase data.

117-120. (Canceled)

121. (Previously Presented) The commercial transaction system of claim 112 wherein vendors isolated by the control system are informed of buyers price criteria for vendors to satisfy.

122. (Canceled)

123. (Previously Amended) The commercial transaction system of claim 121 wherein said other factors that are considered include the vendor delivery status.

124. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs more than one indication to said buyers by electronic mail (e-mail).

125. (Previously Presented) The commercial transaction system of claim 124 wherein the addresses for electronic communication is an electronic mail address.

126. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an additional indication to said buyers by a telephonic communication.

127. (Previously Presented) The commercial transaction system of claim 126 wherein the addresses for electronic communication is a telephone number.

128. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an additional indication to said buyers by a recorded voice message.

129. (Previously Presented) The commercial transaction system of claim 128 wherein the recorded voice message is voicemail.

130. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an additional indication to said buyers by an electronic bulletin board.

131. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an additional indication to said buyers by facsimile.

132. (Previously Presented) The commercial transaction system of claim 131 wherein an address for electronic communication is a telephone number associated with a facsimile machine.

133. (Previously Presented) The commercial transaction system of claim 112 wherein an address for electronic communication is obtained for at least certain of said buyers from an on-line computer service.

134. (Previously Presented) The commercial transaction system of claim 112 wherein an address for electronic communication is provided during a registration phase.

135. (Previously Presented) The commercial transaction system of claim 112 wherein an address for electronic communication is obtained automatically from the system.

136. (Previously Presented) The commercial transaction system of claim 112 wherein the control system sends the indication to several subsets of potential buyers in sequence.

137. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an indication to said buyers by a video download of information relating to the area of interest.

138. (Previously Presented) The commercial transaction system of claim 137 wherein the control system outputs an indication to said buyers further including audio.

139. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an indication to said buyers by video including information depicting at least in part the products or services relating to the area of interest.

140. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an indication to said buyers by dynamic video relating to the area of interest.

141. (Previously Presented) The commercial transaction system of claim 112 wherein the control system outputs an indication to said buyers at least in part by still picture information depicting at least in part the products or services relating to the areas of commercial merchandise or services interest.

142. (Previously Presented) The commercial transaction system of claim 141 wherein the indication further includes audio with the still picture information.

143. (Previously Presented) The commercial transaction system of claim 112 further including a response system to permit buyers to contact said system in response to receipt of said indication to said buyers regarding materials relating to the areas of commercial merchandise or services interest.

144. (Previously Presented) The commercial transaction system of claim 143 further including a cross reference number to identify transactions relating to the areas of commercial merchandise or services interest.

145. (Previously Presented) The commercial transaction system of claim 112 further including an image display system for presenting high resolution still images to said potential buyer upon contact of said system, after the communication of the indication to said buyer regarding said area of commercial merchandise or services interest.

146. (Previously Presented) The commercial transaction system of claim 145 further including an audio system for providing audio to at least said buyer.

147. (Previously Presented) The commercial transaction system of claim 112 further including a dynamic video display system for presenting dynamic video to said potential buyer upon contact of said system after the communication of the indication to said buyer regarding said area of commercial merchandise or services interest.

148. (Previously Presented) The commercial transaction system of claim 112 further including a text system for providing text.

149. (Previously Presented) The commercial transaction system of claim 112 further including an audio system for providing audio.

150. (Previously Presented) The commercial transaction system of claim 149 wherein the audio system provides at least voice.

151. (Previously Presented) The commercial transaction system of claim 112 further including an inventory control system.

152. (Previously Presented) The commercial transaction system of claim 151 further including a notification prevention system when said inventory control system indicates that the product or service corresponding to the area of interest is unavailable for ordering.

153. (Previously Presented) The commercial transaction system of claim 112 further including an electronic data interchange capability for facilitating said commercial transactions.

154. (Previously Presented) The commercial transaction system of claim 112 further including a priority determination system.

155. (Previously Presented) The commercial transaction system of claim 154 wherein the priority determination system includes a random number generator.

156. (Previously Presented) The commercial transaction system of claim 154 wherein the priority determination system includes a priority numbering system.

157. (Previously Presented) The commercial transaction system of claim 154 wherein the priority determination system rotates among subsets of said buyers.

158. (Previously Presented) The commercial transaction communication system of claim 112 wherein the identification data is obtained for at least certain of said buyers from said on-line computer service.

159. (Previously Presented) An electronic commercial transaction system for selectively enabling communications via a communication network between one or more possibly interested buyer or buyers and one or more vendor or vendor sites, certain of said buyers having addresses for electronic communication, the system being adapted for use with an on-line computer service, comprising:

- an interface for facilitating interaction of said interested buyers with said system, at least one said buyer adapted for utilizing an on-line computer service as at least a portion of said interface;

- a dynamic video and audio system for providing video and audio at least from said electronic commercial transaction system to said possibly interested buyer;

- an input system for use by interested buyers to designate at least one area of commercial merchandise or services interest created and expressed by the interested buyers via a keypad;

- a control system for isolating from the vendor sites that are identified to the commercial transaction system, at least one vendor site associated with an area of commercial merchandise or services interest;

a memory in association with the one vendor site for storing identification data of an interested buyer in association with said at least one designated area of commercial merchandise or services interest; and

a control system electronically outputs by electronic mail to an address for electronic communication for a potential buyer, an indication to said buyer regarding said area of commercial merchandise or services interest, including a notification of availability of sales presentations of the one or more vendors wherein the sales presentation includes stored video for the area of interest including dynamic video data or high resolution freeze frame video data and text data.

160. (Previously Presented) The commercial transaction system of claim 159 wherein at least one area of interest is designated by unique product codes.

161. (Previously Presented) The commercial transaction system of claim 159 wherein at least one area of commercial merchandise or services interest is designated by product class codes.

162. (Previously Presented) The commercial transaction system of claim 159 wherein at least one area of commercial merchandise or services interest is a specific product.

163. (Previously Presented) The commercial transaction system of claim 159 wherein the control system for isolating the select vendor site utilizes purchase data indicated by the interested buyers.

164. (Previously Presented) The commercial transaction system of claim 159 wherein the control system for communicating with select vendor site utilizes cost data indicated by the interested buyers.

165. (Previously Presented) The commercial transaction system of claim 159 wherein the control system for isolating the select vendor site utilizes qualification data indicated by the interested buyers.

166. (Previously Presented) The commercial transaction system of claim 159 wherein the control system for isolating the select vendor site takes into consideration certain limitations that may be imposed with respect to certain buyers.

167. (Previously Presented) The commercial transaction system of claim 159 wherein the interested buyers indicate the amount that the interested buyers do not wish to exceed with the area of commercial merchandise or services interest.

168. (Previously Presented) The commercial transaction system of claim 1 wherein the control system for isolating the select vendor site further includes other factors in addition to qualification data.

169. (Previously Presented) The commercial transaction system of claim 168 wherein said other factors includes merchandise or services data.

170. (Previously Presented) The commercial transaction system of claim 168 wherein said other factors includes.

171. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs more than one indication to said buyers by an electronic mail (e-mail).

172. (Previously Presented) The commercial transaction system of claim 171 wherein the addresses for electronic communication is an electronic mail address.

173. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs an indication to said buyers by a telephonic communication.

174. (Previously Presented) The commercial transaction system of claim 173 wherein the addresses for electronic communication is a telephone number.

175. (Previously Presented) The commercial transaction system of claim 159 wherein the control system outputs an indication to said buyers by a recorded voice message.

176. (Previously Presented) The commercial transaction system of claim 159 wherein the recorded voice message is voicemail.

177. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs an indication to said buyers by an electronic bulletin board.

178. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs an indication to said buyers by facsimile.

179. (Previously Presented) The commercial transaction system of claim 178 wherein an address for electronic communication is a telephone number associated with a facsimile machine.

180. (Previously Presented) The commercial transaction system of claim 159 wherein an address for electronic communication is obtained for at least certain of said buyers from an on-line computer service.

181. (Previously Presented) The commercial transaction system of claim 159 wherein an address for electronic communication is provided during a registration phase.

182. (Previously Presented) The commercial transaction system of claim 159 wherein an address for electronic communication is obtained automatically from the system.

183. (Previously Presented) The commercial transaction system of claim 159 wherein the address for electronic communication is obtained by ANI.

184. (Previously Presented) The commercial transaction system of claim 159 wherein the control system outputs an indication to said buyers by a video download of information relating to the area of interest.

185. (Previously Presented) The commercial transaction system of claim 184 wherein the control system or the vendor site outputs an indication to said buyers further including audio.

186. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs an indication to said buyers by video including information depicting at least in part the products or services relating to the area of interest.

187. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs an indication to said buyers by dynamic video relating to the area of interest.

188. (Previously Presented) The commercial transaction system of claim 159 wherein the control system or the vendor site outputs an indication to said buyers at least in part by still picture information depicting at least in part the products or services relating to the areas of interest.

189. (Previously Presented) The commercial transaction system of claim 188 wherein the indication further includes audio with the still picture information.

190. (Previously Presented) The commercial transaction system of claim 159 further including a response system to permit buyers to contact said system in response to receipt of said indication to said buyers regarding materials relating to the areas of interest.

191. (Previously Presented) The commercial transaction system of claim 190 further including a cross reference number to identify transactions relating to the areas of interest.

192. (Previously Presented) The commercial transaction system of claim 159 further including an image display system for presenting high resolution still images to said potential buyer upon contact of said system, after the communication of the indication to said buyer regarding said area of commercial merchandise or services interest.

193. (Previously Presented) The commercial transaction system of claim 192 further including an audio system for providing audio to at least said buyer.

194. (Previously Presented) The commercial transaction system of claim 159 further including a dynamic video display system for presenting dynamic video to said potential buyer upon contact of said system after the communication of the indication to said buyer regarding said area of commercial merchandise or services interest.

195. (Previously Presented) The commercial transaction system of claim 159 further including a text system for providing text.

196. (Previously Presented) The commercial transaction system of claim 159 further including an audio system for providing audio.

197. (Previously Presented) The commercial transaction system of claim 196 wherein the audio system provides at least voice as part of the audio.

198. (Previously Presented) The commercial transaction system of claim 159 further including an inventory control system.

199. (Previously Presented) The commercial transaction system of claim 198 further including a notification prevention system when said inventory control system indicates that the product or service corresponding to the area of commercial merchandise or services interest is unavailable for ordering.

200. (Previously Presented) The commercial transaction system of claim 159 further including an electronic data interchange capability for facilitating said commercial transactions.

201. (Previously Presented) The commercial transaction system of claim 159 further including a priority determination system.

202. (Previously Presented) The commercial transaction system of claim 201 wherein the priority determination system includes a random number generator.

203. (Previously Presented) The commercial transaction system of claim 201 wherein the priority determination system includes a priority numbering system.

204. (Presently Presented) The commercial transaction system of claim 201 wherein the priority determination system rotates among subsets of said buyers.

205. (Previously Presented) The commercial transaction communication system of claim 159 wherein the identification data is obtained for at least certain of said buyers from said on-line computer service.

XII. RELATED PROCEEDINGS APPENDIX

An Appeal of a related patent, U.S. Patent No. 7,019,770, at the U.S. Patent Office is listed below:

1. U.S. Patent No. 7,019,770 to Katz, U.S. Application Serial No. 08/407,064, Appeal No. 2003-1089.
(copy of Decision on Appeal dated: August 25, 2004, see EXHIBIT A)
2. Appeal Pending in U.S. Application Serial No. 09/371,212 to Katz.

XIII. EVIDENCE APPENDIX

EXHIBIT A

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 46

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD A. KATZ

Appeal No. 2003-1089
Application 08/407,064

ON BRIEF

Before OWENS, LEVY and BLANKENSHIP, *Administrative Patent Judges*.
OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 34-49 and 51-115. Claims 26-33 and 50, which are all of the other pending claims, have been allowed.

Appeal No. 2003-1089
Application 08/407,064

THE INVENTION

The appellant claims a videophone system for monitoring remote locations from a central unit. Claims 34 and 40 are illustrative and are appended to this decision.

THE REFERENCES

Fuller et al. (Fuller)	4,843,377	Jun. 27, 1989
Thompson	5,109,399	Apr. 28, 1992
Laycock	5,202,759	Apr. 13, 1993
Yamaguchi	5,264,929	Nov. 23, 1993

(filed Dec. 16, 1991)

Peter Wright, "Vision by telephone" (Vision), 8243 Computer Systems, No. 1, Bromley, Great Britain (Jan. 6, 1986).¹

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 34-39, 46, 47, 49, 52, 54-78, 80-89, 93-104, 106-110, 114 and 115 over Vision in view of Yamaguchi and Laycock, claims 40-45 over Vision in view of Laycock and Thompson, claims 48, 51, 90-92 and 111-113 over Vision in view of Yamaguchi, Laycock and Thompson, and claims 53, 79 and 105 over Vision in view of Yamaguchi, Laycock and Fuller.

¹ The pages in Vision are not numbered. Hence, we refer to them as if they are numbered consecutively from 1 to 4.

OPINION

We affirm the rejection of claims 40-45 and reverse the rejections of the other claims.

Claims 34-39, 46-49 and 51-115

Among claims 34-39, 46-49 and 51-115, we need to address only the independent claims, i.e., claims 34, 46, 77 and 103.

Claim 34 requires a telephonic interface apparatus for interconnecting television camera structures at a plurality of scrutiny locations to at least one television display structure at a central location, and a computer control unit, at the central location, programmed to sequentially and automatically actuate the telephonic interface apparatus to establish television communication between the central station and the plurality of scrutiny locations.

Claim 46 requires a telephonic interface apparatus for interconnecting television communication structures at a plurality of remote locations and a central station, and a control computer programmed to sequentially and automatically actuate the telephonic interface apparatus to selectively communicate from the plurality of remote locations to one of a plurality of television display structures at the central station.

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Claim 77 requires a telephonic interface apparatus for interconnecting television communication structures at a plurality of remote locations and a central station, and a control computer for sequentially actuating the telephonic interface apparatus to selectively communicate in sequence from the plurality of remote locations to at least one of a plurality of television display structures at the central station.

Claim 103 requires a telephonic interface apparatus for interconnecting video communication structures at a plurality of remote locations and a central station, and a control computer for actuating the telephonic interface apparatus to selectively communicate in sequence from the plurality of remote locations to at least one of a plurality of video display structures at the central station.

During patent prosecution, claims are to be given their broadest reasonable interpretation consistent with the specification, as the claim language would have been read by one of ordinary skill in the art in view of the specification and prior art. See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983); *In re Herz*, 537 F.2d 549, 551, 190

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USPQ 461, 463 (CCPA 1976); *In re Okuzawa*, 537 F.2d 545, 548, 190 USPQ 464, 466 (CCPA 1976).

The appellant's specification indicates that by "remote locations" the appellant means locations that are distributed from a central location over a wide area, such as grocery stores, banks, warehouses, automatic tellers, restaurants, factories, businesses and parking structures (page 2, lines 34-35; page 3, lines 9-10; page 7, lines 17-21). Also, the specification discloses that each remote location can have multiple video speakerphones (page 4, lines 19-21; page 7, lines 27-29; page 13, lines 4-7). Thus, the term "remote locations", given its broadest reasonable interpretation in view of the appellant's specification, refers only to locations distributed over a wide area and not to spaced apart video speakerphone sites at a particular location. The meaning of "remote sites" and "remote stations" in the prior art (*Vision*, page 1, third column, first three paragraphs; page 2, first column, first full paragraph) is consistent with this meaning, as is the appellant's interpretation of "remote locations" (reply brief, pages 7 and 10). As for the meaning of "scrutiny locations", the appellant uses this term and "remote locations" synonymously

(specification, page 7, lines 5-6 and 17-18; page 16, lines 29-35; figure 3).

Vision discloses a surveillance and alarm system for monitoring remote sites, for example, 60 remote sites, each of which has up to 10 video cameras (page 1, third column). In the surveillance mode, keying a two digit number into a base station triggers a 60-way autodialer to dial out to the selected remote site (page 2, first column). Then, sequentially, a picture is automatically taken by each camera at that remote site. See *id.*

The examiner argues:

In the "Vision" article, the central base station monitors a plurality of remote sites, for example, 60 separate remote sites (see first page, third column, first two paragraphs), by sequentially auto-dialling each of the 60 locations and displaying images captured by each camera for each remote site (see second page, first column, first two paragraphs beginning at "Security applications"). Clearly, images from the plurality of remote locations are displayed in sequence in the surveillance mode since the plurality of remote locations are sequentially called via the central base station 60-way surveillance auto-dialler (note base station surveillance auto-dialler depicted in the figure on the third page). [answer, page 9]

* * *

The "Vision" system is a microprocessor-based system which automatically dials a plurality of remote sites (page 1, second column, second paragraph) but differs from the invention in that the actuation of the autodialing operation is initiated by a human operator rather than under computer timing control. [answer, page 10]

The examiner's argument that the Vision system automatically sequentially dials the 60 remote sites is incorrect. In the Vision system a single remote site is manually dialed using a two digit code (second page, first column, first full paragraph). The only automatic sequencing that takes place is among the cameras at that site. See *id.*

Yamaguchi discloses a video signal switching apparatus having a change-over switch for selectively outputting, under the control of a central processing unit (CPU), video signals from a plurality of video signal sources such as supervisory video cameras (col. 2, line 46 - col. 3, line 60; col. 4, lines 18-26). The CPU can control the switching operation at times provided by stored timer data (col. 11, lines 36-40).

The examiner argues (answer, pages 9-10):

Yamaguchi was relied upon to show the advantage of using computer timing control when monitoring a plurality of sites rather than requiring an operator at the monitoring site to manually activate monitoring operations (see col. 12, lines 1-39). The examiner did not suggest placing the "Yamaguchi" switch within the central station of the "Vision" system.

The examiner relies upon Yamaguchi only for a suggestion to use computer timing control when carrying out what the examiner considers to be Vision's automatic sequential dialing to remote locations. As pointed out above, however, the Vision system does

not automatically sequentially dial the remote locations.

Laycock is relied upon by the examiner (answer, pages 5-6) for a suggestion to use data compression so that Vision's video can be dynamic rather than slow scan (col. 2, line 65 - col. 3, line 13). The examiner does not rely upon Laycock for any disclosure that remedies the deficiency in Vision as to automatically sequentially dialing remote sites.

We therefore conclude that the examiner has not carried the burden of establishing a *prima facie* case of obviousness of the systems claimed in the appellant's claims 34, 46, 77 and 103. Accordingly, we reverse the rejections of these claims and the claims that depend therefrom.²

Claims 40-45

The appellant indicates that claims 40-45 stand or fall together (brief, page 12). We therefore limit our discussion to one of these claims, i.e., claim 40, which is the sole independent claim among them. See *In re Ochiai*, 71 F.3d 1565, 1566 n.2, 37 USPQ2d 1127, 1129 n.2 (Fed. Cir. 1995); 37 CFR § 1.192(c)(7) (1997).

² The examiner does not rely upon Thompson or Fuller for any disclosure that remedies the deficiency in Vision, Yamaguchi and Laycock as to the independent claims.

In the alarm mode the Vision system observes monitored locations at each remote site from a central station using autodialer dial-up connections originating from the monitored locations (page 2, first column, third full paragraph). A telephonic interface apparatus interconnects the central station and television cameras at each monitored location (page 1, first column, first two paragraphs; page 2, first column, third full paragraph). An alarm sensor triggers a television camera to take four snap shots which are stored and, after an autodialer call is made to the central station, are displayed as slow scan images on a television display at the central location. See *id.* A fifth picture is taken and, while it is being transmitted to the central station, the other cameras at the monitored location are sequenced automatically (page 2, first column, third full paragraph).

Laycock discloses that the use of video data compression and differential pulse code modulation significantly reduces signal bandwidth such that video image signals can be dynamic rather than slow scan (col. 2, line 65 - col. 3, line 13).

Thompson discloses "a computer-based system for receiving emergency telephone calls which, upon receipt of the call, automatically displays to the operator a map showing a geographic

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location associated with the calling party as well as other pre-specified textual information pertaining to the calling party" (col. 1, lines 63-68). The system includes a customer database (52) that contains records about the phone customers served by the system (col. 4, lines 30-32). Each record includes a customer's name, address and telephone number, a pair of map coordinates corresponding to a geographic location associated with the telephone number, and textual information which may include any information considered pertinent to the individual number and which may be useful for emergency services should the need arise (col. 3, lines 10-20; col. 4, lines 30-40). The customer database can be accessed by the emergency caller's telephone number being input to the system using automatic number identification (ANI) (col. 3, lines 20-24). The customer record information and a map showing the area surrounding the location of the calling telephone then are shown on a display (col. 3, lines 26-33; col. 4, line 59 - col. 5, line 19).

The appellant acknowledges in the brief (page 25) that ANI signals are a form of D channel type signals.³ The appellant argues: "The claimed use of 'D' channel type signals is totally foreign to that of 'Thompson.' While Thompson involves 9-1-1 calls from persons, claim 40 involves automated operations prompted by 'alert situations'" (brief, page 26). Claim 40 does not require that the D channel type signals are used for alert situation indication. The only use of the D channel type signals required by the claim is for activating the control computer. Thompson's computer is activated when the telephone number of the calling party is input to the computer system using ANI signals (col. 3, lines 20-24) which the appellant has acknowledged are D channel type signals.

The appellant argues: "Distinct from the identification information provided by 'Thompson,' the system of claim 40

³ The appellant also acknowledges in the specification (page 10, lines 11-14; page 19, lines 21-24) that ANI signals can be carried on the D channel. These acknowledgments are supported by 1) *Newton's Telecom Dictionary* 169 (Telecom Library Inc., 1991) (a copy of which is provided to the appellant with this decision), which states that in the basic rate interface the D channel carries ANI characteristics of a call, 2) computer search results provided to the appellant with this decision, and 3) U.S. 5,003,595 to Collins et al. (filed August 29, 1989), which states: "The D-channel of this primary rate interface carries a setup message 111 including the automatic number identification number 113 to the PBX 121" (col. 4, lines 37-39).

displays 'graphic data including an alert situation indication'" (brief, page 26). The appellant's specification indicates that the term "graphic data" as used by the appellant includes displayed text (page 30, lines 6-8). Thompson discloses that the displayed consumer record data includes "any information considered pertinent to the individual number and which may be useful for emergency services should the need arise" (col. 3, lines 17-20). This disclosure would have fairly suggested, to one of ordinary skill in the art, including in the customer record an alert situation indication such as a medical condition of the customer.

The appellant argues that "'Thompson' operates in a manner foreign to either 'Vision' or 'Laycock,' involving manual emergency calls where a caller is on the line with a security person during communication" (brief, page 23). Thompson's call is initiated by a person rather than by an autodialer as in Vision. However, it would have been apparent to one of ordinary skill in the art that Thompson's ANI would be effective regardless of whether the call is initiated manually-or automatically. Thompson, therefore, would have fairly suggested, to one of ordinary skill in the art, incorporating his system into the Vision system to determine the location of the telephone

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from which each autodialed call is received and to display the telephone's location and information relevant to that location.

For the above reasons we are not convinced of reversible error in the examiner's rejection of claims 40-45. Accordingly, we affirm the rejection of those claims.

DECISION

The rejections under 35 U.S.C. § 103 of claims 34-39, 46, 47, 49, 52, 54-78, 80-89, 93-104, 106-110, 114 and 115 over Vision in view of Yamaguchi and Laycock, claims 48, 51, 90-92 and 111-113 over Vision in view of Yamaguchi, Laycock and Thompson, and claims 53, 79 and 105 over Vision in view of Yamaguchi, Laycock and Fuller, are reversed. The rejection under 35 U.S.C. § 103 of claims 40-45 over Vision in view of Laycock and Thompson is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED-IN-PART

<i>Terry J. Owens</i>)	
TERRY J. OWENS)	
Administrative Patent Judge)	
)	
<i>Stuart S. Levy</i>)	BOARD OF PATENT
STUART S. LEVY)	
Administrative Patent Judge)	APPEALS AND
)	
<i>Howard B. Blankenship</i>)	INTERFERENCES
HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

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APPENDIX

34. A system for monitoring a plurality of scrutiny locations from a central station using dial-up telephone facilities comprising:

television camera structures located at said plurality of scrutiny locations for providing representative dynamic image television signals representative of scenes from said plurality of scrutiny locations;

at least one television display structure located at said central station;

telephonic interface apparatus for interconnecting said television camera structures at said plurality of scrutiny locations to said at least one television display structure at said central location; and

a control unit located at said central station including a computer and a memory for storing identification designation data and graphic display data for said plurality of scrutiny locations, said control unit programmed to sequentially and automatically actuate, under control of said computer, said telephonic interface apparatus to establish television communication between said central station and said plurality of scrutiny locations to provide a sequence of remote location displays at said central station, for programmed intervals, showing a scene and graphic display data of the plurality of scrutiny locations, said control unit further including interrupt structure for receiving an interrupt signal manifesting a predetermined circumstance to interrupt said sequence of remote location displays controlled by the computer and to provide an alternate display of a scene from another of said plurality of scrutiny locations along with graphic display data.

40. A system for observing a plurality of monitored locations from a central station utilizing dial-up telephone facilities comprising:

at least one television camera structure located at each of said plurality of monitored locations for providing scene representative dynamic image television signals of location displays;

a plurality of switch structures at each of said plurality of monitored locations for providing alert signals indicating various alert situations;

at least one television display structure at said central station for providing a scene display of said plurality of monitored locations represented by said scene representative dynamic image television signals;

telephonic interface apparatus for interconnecting said television camera structures at said monitored locations and said central station, said telephonic interface apparatus including at least one autodialer apparatus at said monitored locations for dial-up connection originated from a monitored location, said telephonic apparatus further including "D" channel type apparatus, for providing "D" channel type signals to manifest said various alert situations; and

a control computer activated by said "D" channel type signals and including memory structure addressable to supply location graphic data, including an alert situation indication for actuating said at least one television display structure to display the graphic data including an alert situation indication along with said scene representative dynamic image television signals of said location displays.